IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 7100 of 2007()

CRIME NO.698/07 OF PERINTHALMANNA POLICE STATION)
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PETITIONER/ACCUSED

ALANGADAN ABDUL AZEEZ,
S/O MOHAMMAD HAJI, ALANGADAM HOUSE,
PUTHENANGADI P.O., ANGADIPURAM,
PERINTHALMANNA TALUK, MALAPPURAM DIST.

BY ADV. SRI.A.MOHAMED MUSTAQUE

RESPONDENTS: COMPLAINANT
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1. **THE SUB INSPECTOR OF POLICE,**
   PERINTHALMANNA POLICE STATION.

2. **THE STATE OF KERALA, REPRESENTED BY**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007, ALONG WITH BA. NO.7108/2007 AND CONNECTED CASES THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.Nos. 7100, 7106, 7108, 7112, 7113, 7114, 7115, 7117, 7118, 7121, 7122, 7123, 7129, 7130, 7131, 7132, 7134, 7136, 7137, 7142 & 7146, OF 2007

Dated this the 21st day of November, 2007

ORDER

These applications for anticipatory bail are filed by the common petitioner. He faces allegations in separate crimes registered under Secs.379 and 411 of the IPC. The crux of the allegations is that accused 1 and 2 have committed theft of gas cylinders from various places. They along with the 3rd accused had removed the stolen gas cylinders in a vehicle belonging to the 3rd accused and the same were allegedly sold to the petitioner herein, who allegedly with the knowledge that the gas cylinders were stolen property, received the same from accused 1 to 3. Accused 1 and 2 were arrested under suspicious circumstances. They were interrogated. They allegedly made confession statements. On the basis of the

confession statements of the accused persons, the stolen articles were recovered from the gas cylinder agency of the petitioner. The petitioner was, of course, not personally present when the recoveries were effected. But on the basis of the statements of the co-accused i.e., accused A1 and A2, recoveries were effected from the shop of the petitioner. It is the case of the prosecution that the petitioner had common intention with the other accused and he had received the stolen property knowing the same to be the stolen property. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and that his arrest and detention is not necessary at all.

3. The learned Public Prosecutor opposes the applications. The learned Public Prosecutor submits that, in the facts and circumstances of this case, there is absolutely no necessity or justification to invoke the jurisdiction under Sec.438 of the Cr.P.C. The petitioner may be directed to surrender before the learned Magistrates concerned and seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. The Case Diary in B.A.No.7117/07 has been perused by me. I find merit in the opposition by the learned Public

Prosecutor. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I find no features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. I take note of the submission of the learned Public Prosecutor that a person could not be under any bona fide impression that such a stranger person like the principal accused would be in a position to deliver the gas cylinders to him in the proper and normal course.

5. In the result, these bail applications are dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. to Judge